

All communications respecting this case should identify it by number and names of parties.



**U.S. DEPARTMENT OF COMMERCE
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PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Applicants: Fraley et al
Serial No.: 07/625,637
Filed: December 7, 1990
For: CHIMERIC GENES FOR
TRANSFORMING PLANT CELLS
USING VIRAL PROMOTERS

Accorded benefit of:
US SN 06/931,492,
filed Nov. 17, 1986;
US SN 06/485,568,
filed April 15, 1983;
US SN 06/458,414,
filed Jan. 17, 1983

The case referred to above has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with other cases hereafter specified. Attention is directed to the fact that this interference is declared pursuant to 37 CFR 1.601 et seq., effective February 11, 1985 (49 F.R. 48416. 1050 O.G. 385). The interference is designated as No. 102,890.

By direction of the Commissioner of Patents and Trademarks and as required by 35 USC 135(c), notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference."

The cases involved in this interference are:

Junior Party

Applicants: Robert T. Fraley and Stephen G. Rogers

Addresses: 12917 Topping Estates
St. Louis, MO 63131;
14788 Timberbluff Drive
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Serial No.: 07/625,637, filed December 7, 1990

For: CHIMERIC GENES FOR TRANSFORMING PLANT CELLS
USING VIRAL PROMOTERS

Assignees: Monsanto Company, St. Louis, MO, a corp. of DE

Attorneys of Record: Dennis R. Hoerner, Jr., Larry R. Swaney,
James W. Williams, Jr., Arnold H. Cole
and Thomas P. McBride

Associate Attorney: Lawrence M. Lavin, Jr.

Accorded Benefit of: US SN 06/931,492, filed Nov. 17, 1986
US SN 06/485,568, filed Apr. 15, 1983
US SN 06/458,414, filed Jan. 17, 1983

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Senior Party

Applicants: Luca Comai, Catherine M. Houck,
Richard C. Gardner and David M. Stalker

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172 Carmel Court
Vacaville, CA 95688;
39 Kingsview Road, Mt. Eden
Auckland, New Zealand;
2736 Cumberland Place
Davis, CA

Serial No.: 07/373,795, filed June 29, 1989

For: METHOD TO TRANSFORM PLANT CELLS, USEFUL
CONSTRUCTS AND RESULTING CELLS

Assignees: Calgene, Inc, Davis, CA, a corp. of DE

Attorneys of Record: Bertram I. Rowland, Richard L. Neeley,
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Mark E. Phelps, H. Michael Hartmann, John D. Foster,
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John Kilyk, Jr., John Belz, Brett A. Hesterberg,
Herbert C. Rose, Robert F. Green, Janice M. McLain,
Paul F. Pedigo

Associate Attorney: Richard D. Kelly

Accorded Benefit of: US SN 07/192,484, filed May 11, 1988,
Patent No. 5,068,193, issued Nov. 26, 1991
US SN 06/796,484, filed Nov. 06, 1985,
Patent No. 4,762,785, issued Aug. 09, 1988
US SN 07/049,559, filed May 13, 1987;
US SN 06/407,525, filed Aug. 12, 1982;
US SN 07/014,154, filed Feb. 11, 1987;
US SN 06/464,228, filed Feb. 07, 1983

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Count 1

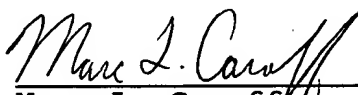
A DNA construct comprising:

(A) a CaMV promoter selected from the group consisting of a 35S promoter and a 19S promoter, and

(B) a DNA sequence of interest heterologous to (A), wherein (B) is under the regulatory control of (A) when said construct is transcribed in a plant cell.

The claims of the parties which correspond to this count are:

Fraley et al: Claims 1, 2, 4-11 and 13-20
Comai et al: Claims 39-58



Marc L. Caroff
Examiner-in-Chief
(703) 557-4007

mjm

INTERFERENCE
DIGESTInterference No. 102,890 Paper No. 28Name, Robert T. Fraley et alSerial No. 07/625,637 Patent No. _____Title, CHIMERIC GENES FOR TRANSFORMING PLANT CELLS USING VIRAL PROMOTERSFiled, December 7, 1990Interference with Comai et al

DECISION ON MOTIONS

Examiner-in-Chief, _____ Dated, _____

FINAL DECISION

~~DECISIONS ON PRIORITY~~Board of Patent Appeals and Interferences, Favorable Dated, 7/14/93

Court, _____ Dated, _____

REMARKS

This should be placed in each application or patent involved in interference in addition to the interference letters.